

Message Text

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AMEMBASSY BERLIN

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C O N F I D E N T I A L SECTION 01 OF 03 BONN 13913

E.O. 11652: GDS

TAGS: PFOR PGOV WB GW GE US UK FR UR

SUBJECT: GDR OBSTRUCTION OF TRANSIT TO BERLIN:
PROPOSED ALLIED PROTEST TO SOVIETS

REFS: (A) USBER 1717; (B) BONN 13755; (C) BONN 13682;
(D) BERLIN 6484

SUMMARY. PROSPECTS FOR A PROMPT, HIGH-LEVEL ALLIED
PROTEST TO THE SOVIETS OVER GDR REFUSAL TO PERMIT 13
BUSLOADS OF GERMANS TO USE THE TRANSIT ROUTES TO BERLIN
LAST FRIDAY ARE DIMMING. WHILE IN EMBASSY VIEW THE
AUGUST 13 ACTION CONSTITUTED THE MOST SERIOUS VIOLATION
OF THE SOVIET GUARANTEE OF UNIMPEDED ACCESS TO BERLIN
SINCE THE QUADRIPARTITE AGREEMENT, THE BONN GROUP ON
AUGUST 19 REACHED NO CONSENSUS ON A DEMARCHE BECAUSE OF
FRENCH DISINCLINATION TO RAISE THE MATTER AT HIGHER THAN
THE POLAD LEVEL IN BERLIN, A BRITISH DESIRE TO GO SLOW
WHILE CAREFULLY CONSIDERING THE RESULTS OF
INNER-GERMAN DISCUSSIONS, AND A LACK OF US INSTRUCTIONS.

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THE BONN GROUP WILL RETURN TO CONSIDERATION OF A

POSSIBLE PROTEST WHEN THE LATTER HAVE ARRIVED. END
SUMMARY.

1. THE FRG ACCOUNT TO THE BONN GROUP ON AUGUST 19 OF THE PREVIOUS DAY'S MEETING OF THE INNER-GERMAN TRANSIT COMMISSION (TC), REPORTED IN SOME DETAIL BY SEPTTEL, SHOWED THAT THE GDR HAS CAREFULLY AVOIDED CLAIMING THAT TRAVEL TO WEST BERLIN IN ORDER TO PARTICIPATE IN AN ANTI-GDR DEMONSTRATION THERE COULD CONSTITUTE MISUSE OF THE TRANSIT ROUTES. INSTEAD, THE GDR HAS DEVELOPED A CASE IN THE TC FOR JUSTIFYING A SUSPICION THAT THE TRAVELLERS INTENDED TO ENGAGE IN IMPROPER CONDUCT WHILE TRANSITING THE GDR. DISPLAYING CONFISCATED LEAFLETS AND BROCHURES (OTHER EVIDENCE REPORTED SEPTTEL SUGGESTS THAT THESE WERE GENUINE), THE GDR DELEGATION SOUGHT TO DOCUMENT ITS CASE FOR SUSPECTING MISUSE OF THE TRANSIT ROUTES. IT ALSO GAVE RATHER ARTFUL EXPLANATIONS FOR HAVING QUESTIONED PASSENGERS AND FOR FAILING TO PROVIDE RECEIPTS FOR CONFISCATED MATERIALS.

2. FOLLOWING THE FRG PRESENTATION, THE BRITISH AND FRENCH REPS REPORTED PRELIMINARY REACTIONS FROM CAPITALS TO THE BONN GROUP RECOMMENDATION FOR AN ALLIED PROTEST TO THE SOVIETS (REFS B AND C). READING FROM INSTRUCTIONS, CARTER (UK) REPORTED THAT LONDON THOUGHT IT WOULD BE NECESSARY TO CONSIDER VERY CAREFULLY THE OUTCOME OF THE TC MEETING BEFORE DECIDING ON WHETHER TO PROTEST AND ON THE CONTENT OF A POSSIBLE PROTEST. THE FCO SAID THAT, BY ALL INDICATIONS, THE SOVIETS AND EAST GERMANS DID NOT WISH TO ESCALATE; THEIR ACTIONS HAD BEEN VERY CIRCUMSCRIBED, AND OTHER TRANSIT TRAFFIC WAS PROCEEDING NORMALLY. LONDON ASSUMED THAT ALL FOUR WESTERN POWERS WOULD WISH TO AVOID FURTHER ESCALATION, HENCE THE NEED TO CONSIDER THE TRANSIT COMMISSION PROCEEDINGS VERY CAREFULLY. THE FCO NOTED THAT THE ALLIES ALREADY HAD ISSUED A WELL-RECEIVED PRESS STATEMENT; IT WOULD HAVE NO OBJECTION, IF WE WERE ASKED BY THE PRESS, TO SAYING THAT WE WERE FOLLOWING THE SITUATION CAREFULLY AND WERE STUDYING THE REPORT OF THE TC MEETING. LONDON CONCLUDED THAT IT HAD NO INTEREST IN HEATING UP THE SITUATION
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AROUND BERLIN SIX WEEKS BEFORE THE FRG ELECTIONS AND THAT OUR AIM SHOULD BE TO REDUCE THE PACE AND TEMPERATURE OF DEVELOPMENTS AS FAR AS POSSIBLE, WHILE OF COURSE REMAINING COMPLETELY FIRM ON THE FUNDAMENTAL ISSUES OF THE QA WHICH WERE INVOLVED HERE.

3. LASSUS (FRANCE) SAID THAT PARIS HAD NO
OBJECTION TO THE BASIC IDEA OF MAKING A DEMARCHE, SUBJECT

ONLY TO THE STIPULATION THAT A DEMARCHE, IF ANY, SHOULD
BE MADE AT THE CHAIRMAN POLAD LEVEL IN BERLIN. IN
ELABORATING THAT POINT, LASSUS OFFERED AS A PERSONAL
EXPLANATION HIS BELIEF THAT PARIS WAS INFLUENCED BY THE

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FACT THAT THE FRG ITSELF WAS REACTING VERY CALMLY TO
THE AUGUST 13 STOPPAGES AND THAT THE CHANCELLOR HAD
COMMENTED PUBLICLY THAT IT WOULD BE UNDESIRABLE TO
ESCALATE MATTERS. (COMMENT: SPEAKING PRIVATELY TO US
REP, LASSUS WENT EVEN FURTHER IN SAYING THAT PARIS
SEEMED TO FEEL THAT THE FRG WAS TRYING TO PLAY DOWN THE
INCIDENT WHILE PUSHING THE ALLIES OUT IN FRONT TO TAKE
UP THE CUDGELS WITH THE SOVIETS. FOR THAT REASON, HE
DOUBTED VERY MUCH THAT PARIS COULD BE PERSUADED TO
PROTEST AT A HIGHER LEVEL THAN BERLIN. END COMMENT.)

4. LASSUS WENT ON THAT PARIS HAD NOT YET COMMENTED ON

THE TEXT OF THE BONN GROUP DRAFT PROTEST (REF B). HE HAD INFORMAL INDICATIONS, HOWEVER, THAT PARIS THOUGHT THE ALLIES SHOULD NOT BASE THEMSELVES ON TECHNICAL GROUNDS AND SHOULD AVOID INTERPRETATIONS OF ARTICLE 16 OF THE TRANSIT AGREEMENT (DEALING WITH MISUSE OF THE TRANSIT ROUTES), RELYING INSTEAD ON THE ARGUMENT THAT

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AN INTENTION TO PARTICIPATE IN DEMONSTRATIONS IN BERLIN CANNOT BE CONSIDERED A MISUSE OF THE TRANSIT ROUTES.

5. SPEAKING ON A PERSONAL BASIS, THE US REP TOOK ISSUE BOTH WITH THE FRENCH DESIRE FOR KEEPING THE PROTEST AT THE LOWEST POSSIBLE LEVEL AND WITH THE BRITISH DESIRE TO DELAY. HE EXPRESSED THE VIEW OF THE EMBASSY THAT THE AUGUST 13 TURNBACKS OF 13 BUSLOADS OF PASSENGERS AND SEVERAL PRIVATE CARS REPRESENTED THE MOST SERIOUS INTERFERENCE WITH ACCESS TO BERLIN SINCE THE QA, AND THAT THE SOVIET GUARANTEE OF UNIMPEDED ACCESS HAD BEEN THE PRINCIPAL WESTERN GAIN FROM THE QA. HE THEREFORE THOUGHT A PRO FORMA PROTEST IN BERLIN WOULD BE A VERY WEAK RESPONSE. WITH REGARD TO THE BRITISH DESIRE FOR DELAY, US REP SAID THAT, REGARDLESS OF WHAT EMERGED FROM FURTHER SESSIONS OF THE TRANSIT COMMISSION, THE ESSENCE OF THE MATTER REMAINED THE SAME -- THAT THE GDR HAD TAKEN UPON ITSELF THE RIGHT TO BAN TRAVELLERS ESSENTIALLY BECAUSE IT DID NOT LIKE WHAT THEY PLANNED TO DO IN BERLIN. THE CONFISCATED LITERATURE (WHICH APPARENTLY CAME FROM ONLY ONE OF THE 13 BUSES) AND THE OTHER GDR ARGUMENTATION WAS SIMPLY A PRETEXT. US REP IN PARTICULAR TO OK ISSUE WITH A SUGGESTION BY CARTER THAT THE DRAFT PROTEST SHOULD BE REWORKED TO TAKE ACCOUNT OF THE GDR ARGUMENTS IN THE TRANSIT COMMISSION, POSSIBLY GOING INTO SOME DETAIL ON THE VARYING SITUATIONS OF THE SEVERAL BUSES.

6. US REP SUGGESTED THAT ONLY MINOR MODIFICATIONS WOULD BE NEEDED TO ADAPT THE EXISTING BONN GROUP DRAFT (REF B) TO THE CONSIDERATIONS EXPRESSED BY LONDON AND PARIS. BY DELETING THE SECOND AND THIRD SENTENCES OF PARA 2.B. OF THAT DRAFT, THE PROTEST WOULD BE MAKING THE POINT WHICH IT IS ESSENTIAL FOR THE ALLIES TO REGISTER WITH THE SOVIETS. IT WOULD THUS AVOID ALL REFERENCE TO THE QUESTION OF WHETHER OR NOT THERE WERE SUFFICIENT GROUNDS FOR SUSPICION OF MISUSE OF THE TRANSIT ROUTES AND LEAVE ANY ARGUMENTATION ON THAT ISSUE UNTIL WE HAD CONSIDERED THE INEVITABLE SOVIET RESPONSE TO OUR INITIAL PROTEST.

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7. CARTER STILL THOUGHT IT MIGHT BE NECESSARY TO DEAL WITH THE GDR ARGUMENTS MORE FULLY IN THE PROTEST TO THE SOVIETS, BUT SUGGESTED FURTHER CONSIDERATION BE

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DEFERRED UNTIL CAPITALS HAD HAD TIME TO CONSIDER THE TRANSIT COMMISSION REPORT. THIS SUGGESTION WAS ACCEPTED, AND THE BONN GROUP AGREED TO RECONVENE ON MONDAY MORNING, AUGUST 23, UNLESS RECEIPT OF US INSTRUCTIONS BEFORE THEN SHOULD MAKE AN EARLIER MEETING WORTHWHILE.

8. COMMENT: ONE DIFFICULTY WHICH HAS COMPLICATED THE DRAFTING PROCESS IS A LACK OF AGREEMENT WITHIN THE

BONN GROUP ON INTERPRETATION OF RELEVANT PORTIONS OF THE QA AND THE TRANSIT TRAFFIC AGREEMENT (TTA). THE WORDING OF ANNEX I OF THE QA SUGGESTS THAT SUSPECTED MISUSE OF THE TRANSIT ROUTES IS VALID GROUNDS FOR TURNBACK ONLY OF TRAVELLERS IN INDIVIDUAL VEHICLES, NOT OF THROUGH BUSES, AND THE CORRESPONDING PORTIONS OF THE TTA -- ESPECIALLY ARTICLES 9(5), 10(5) AND 16 -- SUPPORT THIS INTERPRETATION. AFTER CHECKING WITH COMPETENT OFFICIALS IN THE TRANSPORTATION MINISTRY, HOWEVER, THE FRG REPS INFORMED THE BONN GROUP THAT THE FRG DOES NOT
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INSIST ON SUCH A DISTINCTION AND HAS IN PRACTICE AGREED WITH THE GDR THAT THE "MISUSE" PROVISIONS APPLY EQUALLY TO ALL TRAVELLERS. THE ALLIED REPS ARE RELUCTANT TO CONCEDE THAT POINT IN A PROTEST TO THE SOVIETS, FOR FEAR THEY WOULD BE ACQUIESCING IN SOMETHING WHICH WAS NOT GIVEN AWAY AT THE TIME OF THE QA AND TTA NEGOTIATIONS. (A MORE DETAILED EXPLANATION OF THE LEGAL INTERPRETATION PROBLEMS INVOLVED FOLLOWS BY AIRGRAM.) THIS CONFUSION PRESENTS AN EVEN STRONGER ARGUMENT, IN OUR VIEW, FOR AVOIDING ANY DISCUSSION, IN THE PROTEST TO THE SOVIETS, OF WHETHER THE GDR DID OR DID NOT HAVE GROUNDS FOR SUSPECTING MISUSE OF THE TRANSIT ROUTES. THE ESSENTIAL FACT REMAINS THAT THE GDR HAS DEMONSTRATED ITS READINESS TO CUT OFF ACCESS TO SHOW ITS DISPLEASURE. HOWEVER STRONG THE PROVOCATION PROVIDED BY THE AUGUST 13 STERNFAHRT AND WEST BERLIN RALLY, IT SEEMS ESSENTIAL TO REGISTER THE POINT WITH THE SOVIETS THAT THIS IS UNACCEPTABLE.
HILLENBRAND

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